

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ELIZABETH ROWLAND, Plaintiff,

vs.

PARIS LAS VEGAS, CAESARS ENTERTAINMENT OPERATING COMPANY, INC., and DOES 1 to 25, inclusive,

Defendants.

Case No. 3:13-cv-02630-GPC-DHB  
**ORDER:**

**1) GRANTING DEFENDANT CAESARS ENTERTAINMENT OPERATING COMPANY, INC.'S MOTION TO DISMISS**

[Dkt. No. 3.]

**2) VACATING MOTION HEARING**

**INTRODUCTION**

Presently before the Court is Specially Appearing Defendant Caesars Entertainment Operating Company, Inc.'s ("Defendant") Motion to Dismiss for lack of personal jurisdiction. (Dkt. No. 3.) The parties have fully briefed the motion. (Dkt. Nos. 5, 6.) The motion is submitted on the papers without oral argument, pursuant to Civil Local Rule 7.1(d)(1). Upon review of the moving papers, admissible evidence, and applicable law, the Court GRANTS Defendants' Motion.

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**BACKGROUND**

On September 6, 2013, Plaintiff Elizabeth Rowland (“Plaintiff”) filed a complaint against Paris Las Vegas and Caesars Entertainment Operating Company, Inc. in California Superior Court. (Dkt. No. 1, Ex. 3 “Compl.”) Plaintiff’s Complaint alleges two state causes of action: (1) premises liability; and (2) general negligence. (Compl. at 3.) Plaintiff alleges slipping upon a substance on the tile flooring at the Paris Las Vegas Hotel in Las Vegas, Nevada, on May 16, 2013, causing her to fall and sustain personal injuries. (Compl. at 5.) Plaintiff alleges receiving substantial medical treatment for her injuries in San Diego County. (Compl. at 2.)

On October 31, 2013, Defendant Caesars Entertainment Operating Company, Inc. filed a notice of removal, removing the present action to federal court based on diversity jurisdiction. (Dkt. No. 1, Notice of Removal.) On November 7, 2013, Defendant filed the present motion to dismiss or transfer venue pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3). (Dkt. No. 3.)

**LEGAL STANDARD**

The exercise of personal jurisdiction over a nonresident defendant must be authorized under both state and federal law. St. Ventures, LLC v. KBA Assets & Acquisitions, LLC, 1:12-CV-01058-LJO, 2013 WL 1749901 at \*3 (E.D. Cal. Apr. 23, 2013). California’s long-arm statute is coextensive with the limits of due process set by the United States Constitution. Cal. Civ. Proc. Code § 410.10. Thus, “the jurisdictional analyses under state law and federal due process are the same.” Mavrix Photo, Inc. v. Brand Techs., Inc., 647 F.3d 1218, 1223 (9th Cir. 2011), cert. denied, 132 S. Ct. 1101 (2012).

Due process requires that a defendant “must have ‘certain minimum contacts’ with the relevant forum such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” Mavrix Photo, 647 F.3d at 1223 (quoting Int’l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)).

The type of minimum contacts required to exercise personal jurisdiction over a

1 nonresident defendant may be “specific” or “general” in nature. A court may have  
 2 general jurisdiction over a defendant where “the defendant’s contacts with the forum  
 3 state are so pervasive as to justify the exercise of jurisdiction over the person in all  
 4 matters.” St. Ventures, 2013 WL 1749901 at \*3. Specific jurisdiction, on the other  
 5 hand, “arises out of the defendant’s contacts with the forum giving rise to the subject  
 6 of the litigation” and only applies to the case at issue. Id.

7 When a defendant moves to dismiss for lack of personal jurisdiction, the plaintiff  
 8 has the burden of establishing that jurisdiction is proper. Washington Shoe Co. v. A-Z  
 9 Sporting Goods Inc., 704 F.3d 668, 671-72 (9th Cir. 2012). However, in the absence  
 10 of an evidentiary hearing, the plaintiff need only make a ““prima facie showing of  
 11 jurisdictional facts to withstand the motion to dismiss.”” Id. (quoting Pebble Beach Co.  
 12 v. Caddy, 453 F.3d 1151, 1154 (9th Cir. 2006)). Uncontroverted allegations in the  
 13 complaint must be taken as true. AT & T v. Compagnie Bruxelles Lambert, 94 F.3d  
 14 586, 588 (9th Cir. 1996). However, the court may not assume the truth of such  
 15 allegations if they are contradicted by affidavit. Data Disc, Inc. v. Sys. Tech. Assocs.,  
 16 Inc., 557 F.2d 1280, 1284 (9th Cir. 1977). All disputed facts must be resolved in favor  
 17 of the plaintiff. Washington Shoe, 704 F.3d at 671-72.

## 18 DISCUSSION

### 19 I. Requests for Judicial Notice and Objections to Evidence

20 The Federal Rules of Evidence provide that judicial notice may be taken of  
 21 adjudicative facts. See Fed. R. Evid. 201(a). A judicially noticed fact must be one not  
 22 subject to reasonable dispute in that it is either (1) generally known within the  
 23 territorial jurisdiction of the trial court or (2) capable of accurate and ready  
 24 determination by resort to sources whose accuracy cannot be reasonably questioned.  
 25 See Fed. R. Evid. 201(b). "Since the effect of taking judicial notice under Rule 201 is  
 26 to preclude a party from introducing contrary evidence and in effect, directing a verdict  
 27 against him as to the fact noticed, the fact must be one that only an unreasonable person  
 28 would insist on disputing." United States v. Jones, 29 F.3d 1549, 1553 (11th Cir. 1994)

1 (citing 21 C. Wright & K. Graham, Federal Practice & Procedure: Evidence § 5104 at  
 2 485 (1977 & Supp. 1994)).

3       **a. Plaintiff's request for judicial notice**

4 Plaintiff requests judicial notice of two documents: (1) the California Secretary  
 5 of State Business Entity Detail for Caesars Entertainment Operating Company, Inc.;  
 6 and (2) the U.S. District Court opinion in Day v. Harrah's Hotel & Casino Las Vegas,  
 7 2010 U.S. Dist. LEXIS 116817. (Dkt. No. 5-5.) The content of records of  
 8 administrative bodies are proper subjects for judicial notice under Rule 201(d),  
 9 Interstate Natural Gas Co. v. S. Cal. Gas Co., 209 F.2d 380, 385 (9th Cir. 1953), as are  
 10 court filings and other matters of public record, Reyn's Pasta Bella, LLC v. Visa USA, Inc.,  
 11 442 F.3d 741, 746 n.6 (9th Cir. 2006). Since Defendant does not dispute judicial  
 12 notice of Plaintiff's documents, and the documents are properly subject to judicial  
 13 notice, the Court GRANTS Plaintiff's request for judicial notice.

14       **b. Defendant's requests for judicial notice**

15 Defendant requests judicial notice of two documents in support of its motion to  
 16 dismiss: (1) Plaintiff's Complaint; and (2) a declaration executed by Duane Holloway  
 17 and filed in the matter of Florida Girmai v. Rincon Band of Luiseno Indians, et al., No.  
 18 11-cv-2567 JLS (POR) (S.D. Cal.). Defendant further submits a supplemental request  
 19 for judicial notice in support of its reply brief seeking judicial notice of orders in six  
 20 cases before district courts in California. (Dkt. No. 6-1.)

21       Judicial notice of court records is routinely accepted. See, e.g., Reyn's Pasta  
 22 Bella, LLC, 442 F.3d at 746 n.6; Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 635,  
 23 n. 1 (N.D. Cal. 1978), aff'd, 645 F.2d 699 (9th Cir.). Accordingly, the Court GRANTS  
 24 Defendant's requests for judicial notice. However, although the Court "may take  
 25 judicial notice of the existence of unrelated court documents . . . it will not take judicial  
 26 notice of such documents for the truth of the matter asserted therein." In re Bare  
 27 Escentuals, Inc. Sec. Lit., 745 F. Supp. 2d 1052, 1067 (N.D. Cal. 2010) (in considering  
 28 defendant's motion to dismiss, the court noticed the existence of unrelated court

1 documents, but would not take judicial notice of the documents for the truth of the  
 2 matter asserted therein); see also McMunigal v. Bloch, No. C 10-02765 SI, 2010 WL  
 3 5399219, \*2 n. 1 (N.D. Cal. Dec. 23, 2010) (granting judicial notice of documents filed  
 4 in another lawsuit for purposes of noticing the existence of the lawsuit, claims made  
 5 in the lawsuit, and that various documents were filed, but not for the truth of the  
 6 matters asserted therein).

7       Here, Defendant seeks to introduce the declaration of Duane Holloway, filed in  
 8 an unrelated case, to support Defendant's claims that Caesars Entertainment Operating  
 9 Company, Inc. does not have contacts with California. (See Dkt. No. 3-1 at 3, 8, 10,  
 10 13.) Holloway's declaration discusses the relationship between the Rincon San Luiseno  
 11 Band of Mission Indians and the Caesars Entertainment Corporation. (Dkt. No. 3-4.)  
 12 Similarly, Defendant requests judicial notice of orders in six cases before California  
 13 state and federal courts that purportedly "evidence that Harrah's Rincon Casino &  
 14 Resort is owned and operated by the Rincon Band of San Luiseno Indians - a tribal  
 15 sovereign nation." (Dkt. No. 6 at 4.) Although the Court takes notice that the Holloway  
 16 declaration and miscellaneous court orders were filed in their respective cases, the  
 17 Court declines to take judicial notice of the declaration or orders for the truth of the  
 18 relationship, or lack thereof, between Harrah's Rincon Casino and Resort, the Rincon  
 19 Band of San Luiseno Indians, or the Caesars Entertainment Corporation. See In re Bare  
 20 Escentuals, Inc. Sec. Lit., 745 F. Supp. 2d at 1067.

21           **c.     Defendant's objections to evidence**

22       Defendant raises numerous objections to Plaintiff's declarations and supporting  
 23 exhibits, and moves to strike the declarations and exhibits in their entirety. The Court  
 24 has reviewed Defendant's evidentiary objections and declines to discuss each objection  
 25 individually. Except as specifically discussed below, the Court overrules the objections  
 26 and denies Defendant's motions to strike. (Dkt. Nos. 6-4, 6-5, 6-6.)

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1           **II. Motion to Dismiss**

2           Plaintiff asserts the Court may exercise both general and specific jurisdiction  
 3 over each Defendant, whereas Defendants contend personal jurisdiction does not exist  
 4 under either standard. For the reasons set forth below, the Court finds that Plaintiff has  
 5 not met her burden of making a *prima facie* showing of jurisdiction. Accordingly, the  
 6 Court GRANTS Defendant's motion to dismiss.

7           **a. General Jurisdiction**

8           General personal jurisdiction enables a court to hear cases unrelated to the  
 9 defendant's forum activities if the defendant has "substantial" or "continuous and  
 10 systematic" contacts with the forum state. Fields v. Sedgwick Associated Risks, Ltd.,  
 11 796 F.2d 299, 301 (9th Cir. 1986). Ordinarily, "[t]he existence of a relationship  
 12 between a parent company and its subsidiaries is not sufficient to establish personal  
 13 jurisdiction over the parent on the basis of the subsidiaries' minimum contacts with the  
 14 forum." Doe v. Unocal Corp., 248 F.3d 915, 925 (9th Cir. 2001). However, a  
 15 subsidiary's contacts may be imputed to the parent where the subsidiary acts as either  
 16 the "alter ego" or "general agent" of the parent. See Bauman v. DaimlerChrysler Corp.,  
 17 644 F.3d 909, 920 (9th Cir. 2011), cert. granted, 133 S. Ct. 1995 (2013); Unocal, 248  
 18 F.3d at 926-28.

19           The alter ego test is predicated upon a showing of parental control over the  
 20 subsidiary, and is satisfied when (1) "there is such a unity of interest and ownership  
 21 that the separate personalities of the two entities no longer exist," and (2) "failure to  
 22 disregard their separate identities would result in fraud or injustice." Bauman, 644  
 23 F.3d at 920.

24           The agency test, on the other hand, is predicated upon the subsidiary's special  
 25 importance to the parent corporation. Unocal, 248 F.3d at 928. "Our starting point for  
 26 the sufficient importance prong is that a subsidiary acts as an agent if the parent would  
 27 undertake to perform the services itself *if it had no representative at all* to perform  
 28 them." Bauman, 644 F.3d at 921 (emphasis in original). The agency test also

1 requires the parent corporation to maintain a level of control over its subsidiary. Id. at  
 2 922-23. However, the parent corporation need not actually exercise control over its  
 3 subsidiary, as long as the parent corporation has the right to do so. Id.

4 Here, the parties agree that Defendant Caesars Entertainment Operating  
 5 Company is a Delaware Corporation with its principal place of business in Las Vegas,  
 6 Nevada. (Dkt. No. 3-1 at 8; Dkt. No. 5-4, Notice of Lodgment Ex. 1.) To support her  
 7 claim that Defendant is subject to the Court's general jurisdiction, Plaintiff seeks to  
 8 introduce exhibits to the Declaration of Daniel J. Williams containing images of  
 9 various websites and brochures downloaded from the internet. (Dkt. No. 5-3; Dkt. No.  
 10 5-4 Exs. 2-13.) The exhibits purportedly establish Defendant's "ownership,  
 11 management, and operational control over the Harrah's Rincon hotel and casino in  
 12 Valley Center, California." (Dkt. No. 5 at 4.)

13 However, the web pages provided by Plaintiff supply only unauthenticated  
 14 hearsay. Plaintiff has not established that the websites from which the screenshots and  
 15 reports were taken are owned or maintained by Defendant, nor that the information  
 16 from the websites is accurate. See Century 21 Real Estate LLC v. San Vicente Real  
Estate Services, Inc., No. 11cv2381WQH(WVG), 2012 WL 6161969, \*2 (S.D. Cal.  
 17 Dec. 11, 2012) (Hayes, J.). Accordingly, Plaintiff has not established that Caesars  
 18 Entertainment Operating Company owns, manages, or operates the Harrah's Rincon  
 19 hotel and casino in Valley Center, California to justify the assertion of general  
 20 jurisdiction over Defendant.

22       **b. Specific Jurisdiction**

23 Plaintiff also claims this Court may exercise specific jurisdiction over Defendant  
 24 Caesars Entertainment Operating Company, Inc. (Dkt. No. 5 at 5.) The Ninth Circuit  
 25 employs a three-part test to determine whether a defendant has sufficient minimum  
 26 contacts to be subject to specific personal jurisdiction:

27       (1) The non-resident defendant must [a] purposefully direct his  
 28 activities or consummate some transaction with the forum or resident  
             thereof; or [b] perform some act by which he purposefully avails

1 himself of the privilege of conducting activities in the forum, thereby  
 2 invoking the benefits and protections of its laws;

3 (2) the claim must be one which arises out of or relates to the  
 defendant's forum-related activities; and

4 (3) the exercise of jurisdiction must comport with fair play and  
 substantial justice, i.e. it must be reasonable.

5 Washington Shoe, 704 F.3d at 672. In analyzing whether the assertion of specific  
 6 jurisdiction over a given defendant would be justified, the plaintiff has the burden of  
 7 satisfying the first two prongs of the test. CollegeSource, Inc. v. AcademyOne, Inc.,  
 8 653 F.3d 1066, 1076 (9th Cir. 2011). If the plaintiff does so, the burden then shifts to  
 9 the defendant to present a “compelling case” that the exercise of jurisdiction would not  
 10 be reasonable. Id.

11 The Court finds that Plaintiff has not made a *prima facie* showing to establish  
 12 that Caesars Entertainment Operating Company, Inc. is subject to this Court’s specific  
 13 jurisdiction. Under the first prong of the specific jurisdiction test, Plaintiff must  
 14 establish that Defendant either purposefully availed themselves of the privilege of  
 15 conducting activities in California or purposefully directed their activities toward  
 16 California. Schwarzeneggar v. Fred Martin Motor Co., 374 F.3d 797, 802 (9th Cir.  
 17 2004). Although contacts must be more than random, fortuitous, or attenuated, contacts  
 18 that are “isolated” or “sporadic” may support specific jurisdiction if they create a  
 19 “substantial connection” with the forum. Burger King Corp. v. Rudzewicz, 471 U.S.  
 20 461, 472-73 (1985). “[I]f the defendant directly solicits business in the forum state, the  
 21 resulting transactions will probably constitute the deliberate transaction of business  
 22 invoking the benefits of the forum state’s laws.” Decker Coal Co. v. Commonwealth  
Edison Co., 805 F.2d 834, 840 (9th Cir.1986)

23 Here, Plaintiff submits a declaration stating that she has been a member of the  
 24 Harrah’s “Total Rewards program” for “several years.” (Dkt. No. 5-1, “Rowland Decl.”)  
 ¶ 3.) Plaintiff declares she and Carol Holcombe periodically stay and/or gamble at  
 25 Harrah’s Rincon Hotel and Casino in Valley Center, California. (Rowland Decl. ¶ 2.)  
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1 In addition, Plaintiff submits the declaration of Carol Holcombe, stating that Holcombe  
 2 also earned Total Reward “points” primarily by gambling in Valley Center. (Dkt. No.  
 3 5-2, “Holcombe Decl.” ¶¶ 3-4.) Holcombe further declares that her “executive casino  
 4 host” at Harrah’s Rincon Hotel and Casino arranged for the complimentary room for  
 5 Plaintiff and herself at the Paris Las Vegas hotel and casino. (Holcombe Decl. ¶ 5.)

6 Plaintiff argues this case is similar to Day v. Harrah’s Hotel & Casino, No.  
 7 10cv1746-WQH-JMA, 2010 WL 4568686 (S.D. Cal. Nov. 2, 2010) (Hayes, J.), in  
 8 which the court found that the defendant Las Vegas hotel had purposefully availed  
 9 itself of California markets. In Day, the plaintiffs offered affidavits stating that the  
 10 defendant Harrah’s Hotel and Casino Las Vegas had actively participated in a Total  
 11 Rewards program with Harrah’s Rincon Hotel and Casino in Valley Center, California.  
 12 2010 WL 4568686 at \* 5. However, the plaintiffs in Day also submitted affidavits  
 13 stating that the defendant Las Vegas hotel also: (1) encouraged California customers  
 14 to play in California in order to earn points that could be redeemed in Las Vegas; and  
 15 (2) advertised the “hot stone massage” that injured the plaintiff in that case at the  
 16 California Rincon hotel.

17 Here, neither the Complaint nor Plaintiff’s submitted declarations link  
 18 Defendant’s participation in the Total Rewards program to the complimentary room in  
 19 which Plaintiff was injured in Las Vegas. Furthermore, Plaintiff does not allege  
 20 Defendant advertised in California or solicited California customers. See Day, 2010  
 21 WL 4568686. Although the Court takes the allegations in Plaintiff’s Complaint and  
 22 declarations as true at this stage of the litigation, AT & T v. Compagnie Bruxelles  
Lambert, 94 F.3d 586, 588 (9th Cir. 1996), the Court finds that Plaintiff has not met her  
 23 burden of demonstrating that Defendant has purposefully directed its activities in  
 24 California nor purposefully availed itself of California markets. Accordingly, Plaintiff  
 25 has not demonstrated that Defendant Caesars Entertainment Operating Company, Inc.  
 26 is subject to the general or specific jurisdiction of this Court.

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## CONCLUSION

For the foregoing reasons, the Court hereby **ORDERS**:

1. Defendants' Motion to Dismiss is **GRANTED**. (Dkt. No. 3.)
2. Defendant's Motion to Transfer Venue is **DENIED AS MOOT**. (Dkt. No. 3.)
3. Plaintiff is granted **LEAVE TO AMEND** the Complaint within thirty (30) days from the date this Order is electronically docketed.
4. The hearing date for this motion scheduled for Friday, February 28, 2014 is **VACATED**.

## IT IS SO ORDERED.

DATED: February 25, 2014

Gonzalo Curiel  
HON. GONZALO P. CURIEL  
United States District Judge